

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

IN RE LIBOR-BASED FINANCIAL
INSTRUMENTS ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

THE BERKSHIRE BANK, et al.,

Plaintiffs,

v.

BANK OF AMERICA CORPORATION, et al.

Defendants.

)
)
) MDL No. 2262
)

) Master File No. 1:11-md-2262-NRB
)

) ECF Case
)
)

) Civil Action No. 12-CV-5723-NRB
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I, JENNIFER M. KEOUGH, declare and state as follows:

INTRODUCTION

1. I am the Chief Executive Officer of JND Legal Administration LLC (“JND”). This Declaration is based on my personal knowledge, as well as upon information provided to me by Counsel and experienced JND employees, and if called on to do so, I could and would testify competently thereto.

2. JND is a legal administration services provider with operations centers in Seattle, WA, Jericho, NY and Minneapolis, MN. JND has extensive experience with all aspects of legal administration, and our team has designed and implemented notice programs in hundreds of cases.

3. JND was retained to work on this matter and implement the proposed legal notice program (the “Notice Program”) in the above-captioned litigation (“Lender Action”). This Declaration describes the Notice Program, which is identical to the approach taken in previous

settlements and approved by this Court. The Notice Program is designed to reach as many Lender Class Members as possible and provide them with the opportunity to review a plain language notice with the ability to easily take the next step and learn more about this Lender Action.

NOTICE PROGRAM SUMMARY

4. The objective of the Notice Program is to provide adequate notice of the Lender Action to potential Lender Class Members within the Class defined as follows:

All lending institutions headquartered in the United States including its fifty (50) states and United States territories, that originated loans, held loans, purchased whole loans, purchased interests in loans or sold loans with interest rates tied to US LIBOR which rates adjusted at any time between August 1 2007 and May 31, 2010 (the "Class Period").

5. The Notice Program, described and detailed below, has been designed to reach potential Lender Class Members primarily through direct mail and a supplemental media program. Specifically, the Notice Program includes the following components:

- Direct mail of the Court approved individual Notice and Proof of Claim Form (attached as Exhibits 1 and 2 respectively) will be sent to a proprietary list of approximately 255,000 entities that held loans which consist of U.S. banks, savings institutions, credit unions, personal credit institutions, trusts, and asset-backed entities compiled by organizations such as infoUSA;
- To the extent potential Lender Class Members may not receive the direct mail notice, a short form or Summary Notice (attached as Exhibit 3) will be published in the *IBD Weekly*, *Barrons*, and *The Wall Street Journal*;
- A press release; and
- The Notice Program will also have a digital component that will target several investment related websites including Yahoo! Finance, Investors.com,

Barrons.com, Marketwatch.com, and WSJ.com, as well as placements through the Taregted Digital Audience Network. Banner ads will run on these websites over the course of approximately one month, each highlighting the settlement and providing a direct link to the case website mentioned below.

DEDICATED CASE WEBSITE AND TOLL-FREE NUMBER

6. An informational interactive website dedicated to the case will be developed to enable potential Lender Class Members to get information about the litigation. The case website will have an easy-to-navigate design and will be formatted to emphasize important information and deadlines. Other available features will include a long-form notice, an email contact form, frequently asked questions page, and downloadable documents.

7. The case website will be optimized for mobile visitors so that information loads quickly on mobile devices and will also be designed to maximize search engine optimization through Google and other search engines. Keywords and natural language search terms will be included in the case website's metadata in order to maximize search engine rankings.

8. Once established, the dedicated case website will be maintained and will serve as an important resource to provide important updates to potential Lender Class Members over the lifetime of the litigation.

9. In addition, JND will make available its scalable call center resources in order to develop and manage the incoming telephone calls received in response to the Notice Program. JND will establish and maintain a 24-hour, toll-free telephone line where callers may obtain information about the case.

NOTICE CONTENT & DESIGN

10. The proposed Notice explains, in clear and concise language, the legal options and monetary benefits available to potential Lender Class Members under the Settlements. As discussed above, the Notice will be mailed directly to potential Lender Class Members, and the Summary Notice will be published in multiple targeted print media, online digital sites, and through a press release. In my professional opinion, the Notice is drafted using clear, simple, and straightforward language, and is presented in an easy to follow and understand format. In conjunction with Plaintiffs' Counsel, we designed the Notice Program to reach the greatest practicable number of potential Lender Class Members and ensure that they will be exposed to, see, review, and understand the Notice. The Notice was drafted using a question and answer format that provides a simple step-by-step explanation of critical issues related to the litigation and the proposed Settlements, and sets out relevant information about the subject of the litigation, the Lender Class definition, and the rights available to potential Lender Class Members.

11. The proposed Summary Notice was likewise drafted to be easy to read and understand, and provide potential Lender Class Members with basic information about the Lender Action and the proposed Settlements, and explain how to obtain additional information, including copies of the Notice and Proof of Claim Form. The proposed Summary Notice directs potential Lender Class Members to the case website, where the full Notice and other documents related to the Settlements are available. These documents will include, for example, the individual settlement agreements with each of the Settling Defendants, the operative Lender Second Amended Class Action Complaint, the Notice, the Plan of Distribution, and the Proof of Claim Form.

12. The Notice contains similar, but more comprehensive information than the Summary Notice. Specifically, the Notice describes in plain, easily understood language: (i) the nature of the Lender Action; (ii) the fraud and civil conspiracy claim pleaded; (iii) the scope of the releases set forth in each of the two separate Settlement Agreements; (iv) the definition of the Lender Class; (v) the monetary benefits available to the potential Lender Class Members, including the Plan of Distribution, Plaintiffs' Counsel's intention to move for an award of fees, expenses, and service awards for the Lender Class representatives, and the maximum size of those awards (as well as the timing of that motion); (vi) the deadline and procedure for submitting a claim (and the necessity to submit a claim to receive benefits under the Settlements); (vii) the deadlines and procedures for excluding oneself from the Lender Class, objecting to any of the Settlements, and attending the fairness hearing; (viii) that potential Lender Class Members may, but need not, appear through their own counsel at the fairness hearing; (ix) the binding effect of the Judgments under Rule 23(c); and (x) the identity of Plaintiffs' Counsel.

13. The Proof of Claim Form itself is simple to understand and to submit. This simplicity should reasonably increase claims rates, while eliciting sufficient information for JND, in conjunction with Plaintiffs' Counsel and their consulting experts, to assess potential Lender Class Members' claims and evaluate any potentially fraudulent or errant submissions. Also, and importantly, the Proof of Claim Form has been designed to permit submission either electronically or in paper, at the potential Lender Class Members' election.

CONCLUSION

14. This tailored and extensive notice campaign reflects a best-practices approach to give effective notice to this Class.

I declare under the penalty of perjury pursuant to the laws of the United States of America that the foregoing is true and correct.

Executed on December 20, 2019, at Seattle, Washington.


JENNIFER M. KEOUGH